

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PATRICK LAMONT SIMS,

**FILED**

Petitioner,

vs.

'06 MAR -2 P12:09

Civil Action No. 04-381E  
JUDGE SEAN McLAUGHLIN  
MAGISTRATE JUDGE BAXTER

JAMES F. SHERMAN,

CLERK  
U.S. DISTRICT COURT

Respondent.

**MOTION FOR ENLARGEMENT OF TIME**

NOW COMES, Petitioner Partick Lamount Sims, in propria persona, and moves this Honorable Court, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, for enlargement of time for filing his objections to the magistrate judge's report and recommendation. In support, the following is respectfully submitted:

1. Mr. Sims is confined at the Federal Correctional Institution at McKean and takes a daily regiment of psychotropic medication.
2. Mr. Sims was assisted by another prisoner when he filed his petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2241. That prisoner is no longer confined at FCI McKean.
3. Because Mr. Sims is unable to file his own legal pleadings, he must obtain the assistance of another prisoner to file his objections to the magistrate judge's report and recommendation.
4. Mr. Sims did not receive his copy of the R & R until Friday, February 24, 2006. He then sought assistance from other prisoners, who referred him to the assisting prisoner who helped to formulate this motion on the date below.
5. In order for the assisting prisoner to properly frame the objections to the R & R, he must first review the pleadings filed in this matter, in addition, to researching the law cited

as authority in the R & R.

6. The assisting prisoner can only access Mr. Sims legal material in the designated area of the law library during both his and Mr. Sims leisure time. See CFR § 543.11(i); see attached Copy.


7. The assisting prisoner can only meet with Mr. Sims two hours per week given their conflicting leisure time schedules. Specifically, the assisting prisoner has a job assignment during the day time hours as does Mr. Sims, but the assisting prisoner also teaches classes four nights per week during leisure time hours, and can therefore only meet with Mr. Sims in the law library two nights per week after the evening meal for two hours per night.

9. Given the scheduling limitations, Mr. Sims request a thirty day enlargement of time. The R & R states that objections are due within ten (10) days from the date of service. Mr. Sims received the R & R on Friday, February 27, 2006. Hence, his objections are due for filing by March 6, 2006.

#### C O N C L U S I O N

WHEREFORE, for the reasons stated above, Petitioner respectfully request this Honorable court to enlarge the time for filing objections to the report and recommendation for 30 days up to and including April 5, 2006.

Date: 2/27/06

  
Patrick Lamont Sims #13953-039  
FCI McKean  
P.O. Box 8000  
Bradford, PA 16701

## PART 543—LEGAL MATTERS

### Subpart A [Reserved]

### Subpart B—Inmate Legal Activities

Sec.

- 543.10 Purpose and scope.
- 543.11 Legal research and preparation of legal documents.
- 543.12 Retention of attorneys.
- 543.13 Visits by attorneys.
- 543.14 Limitation or denial of attorney visits and correspondence.
- 543.15 Legal aid program.
- 543.16 Other paralegals, clerks, and legal assistants.

### Subpart C—Federal Tort Claims Act

- 543.30 Purpose and scope.
- 543.31 Filing a claim.
- 543.32 Processing the claim.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 5006-5024 (Repealed October 12, 1984 as to Offenses committed after that date); 5039; 28 U.S.C. 509, 510, 1346(b); 2671-80; 28 CFR 0.95-0.99, 0.172, 14.1-11.

### Subpart A [Reserved]

### Subpart B—Inmate Legal Activities

SOURCE: 44 FR 38263, June 29, 1979, unless otherwise noted.

#### § 543.10 Purpose and scope.

The Bureau of Prisons affords an inmate reasonable access to legal materials and counsel, and reasonable opportunity to prepare legal documents. The Warden shall establish an inmate law library, and procedures for access to legal reference materials and to legal counsel, and for preparation of legal documents.

[46 FR 59509, Dec. 4, 1981]

#### § 543.11 Legal research and preparation of legal documents.

(a) The Warden shall make materials in the inmate law library available whenever practical, including evening and weekend hours. The Warden shall allow an inmate a reasonable amount of time, ordinarily during the inmate's leisure time (that is, when the inmate is not participating in a scheduled program or work assignment), to do legal

research and to prepare legal documents. Where practical, the Warden shall allow preparation of documents in living quarters during an inmate's leisure time.

(b) The Warden shall periodically ensure that materials in each inmate law library are kept intact and that lost or damaged materials are replaced.

(c) Staff shall advise an inmate of rules and local procedures governing use of the inmate law library. Unauthorized possession of library materials by an inmate constitutes a prohibited act, generally warranting disciplinary action (see part 541 of this chapter).

(d) An inmate's legal materials include but are not limited to the inmate's pleadings and documents (such as a presentence report) that have been filed in court or with another judicial or administrative body, drafts of pleadings to be submitted by the inmate to a court or with other judicial or administrative body which contain the inmate's name and/or case caption prominently displayed on the first page, documents pertaining to an inmate's administrative case, photocopies of legal reference materials, and legal reference materials which are not available in the institution main law library (or basic law library in a satellite camp).

(1) An inmate may solicit or purchase legal materials from outside the institution. The inmate may receive the legal materials in accordance with the provisions on incoming publications or correspondence (see 28 CFR part 540, subparts B and F) or through an authorized attorney visit from a retained attorney. The legal materials are subject to inspection and may be read or copied unless they are received through an authorized attorney visit from a retained attorney or are properly sent as special mail (for example, mail from a court or from an attorney), in which case they may be inspected for contraband or for the purpose of verifying that the mail qualifies as special mail.

(2) Staff may allow an inmate to possess those legal materials which are necessary for the inmate's own legal actions. Staff may also allow an inmate to possess the legal materials of another inmate subject to the limitations of paragraph (f)(2) of this section.

## Bureau of Prisons, Justice

The Warden may limit the amount of legal materials an inmate may accumulate for security or housekeeping reasons.

(e) An inmate is responsible for submitting his documents to court. Institution staff who are authorized to administer oaths shall be available to provide necessary witnessing of these documents, as requested by inmates and at times scheduled by staff.

(f)(1) Except as provided for in paragraph (f)(4) of this section, an inmate may assist another inmate in the same institution during his or her leisure time (as defined in paragraph (a) of this section) with legal research and the preparation of legal documents for submission to a court or other judicial body.

(2) Except as provided for in paragraph (f)(4) of this section, an inmate may possess another inmate's legal materials while assisting the other inmate in the institution's main law library and in another location if the Warden so designates.

(i) The assisting inmate may not remove another inmate's legal materials, including copies of the legal materials, from the law library or other designated location. An assisting inmate is permitted to make handwritten notes and to remove those notes from the library or other designated location if the notes do not contain a case caption or document title or the name(s) of any inmate(s). The assisting inmate may also develop and possess handwritten drafts of pleadings, so long as the draft pleadings do not contain a case caption or document title or the name(s) of any inmate(s). These notes and drafts are not considered to be the assisting inmate's legal property, and when the assisting inmate has these documents outside the law library or other designated location, they are subject to the property limitations in § 553.11(a) of this chapter.

(ii) Although the inmate being assisted need not remain present in the law library or other designated location while the assistance is being rendered, that inmate is responsible for providing and retrieving his or her legal materials from the library or other designated location. Ordinarily, the inmate must provide and retrieve

his or her legal materials during his or her leisure time. An inmate with imminent court deadline may request brief absence from a scheduled program or work assignment in order to go or retrieve legal materials from the inmate's institution.

(3) The Warden may give special consideration to the legal needs of inmates in mental health seclusion status, federal medical centers or to inmates in controlled housing.

(4) The Warden at any institution may impose limitations on an inmate's assistance to another inmate in the interest of institution security, order, or discipline.

(g) The institution staff shall schedule by staff, duplicate legal materials if the inmate demonstrates that more than one copy must be submitted to court and that the duplication cannot be accomplished by the carbon paper. The inmate shall bear the cost, and the duplication shall be done so as not to interfere with institution operations. Staff may waive the cost if the inmate is without funds or if the material is without minimal, and the inmate's request for duplication are not large or excessive.

(h) Unless clearly impractical, the Warden shall allow an inmate to prepare legal documents to use as writer, or, if the inmate cannot write, to have another inmate type his documents. The Warden may allow the inmate to hire a public stenographer to type documents outside the institution, but the institution may require the expense of hiring the stenographer. Staff shall advise the inmate of any delay in the typewriting which he have received notice of the stenographer.

(i) The Warden shall give an inmate time allowance for research and preparation of documents to an inmate who demonstrates a requirement to meet imminent court deadline. Other inmates shall continue his regular institutional activities without disruption by legal activities.

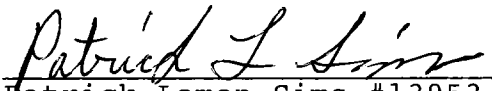
(j) With consideration of the need for other inmates and the availability of staff and other resources, the Warden shall provide an inmate confined in disciplinary segregation or administrative

CERTIFICATE OF SERVICE

The undersigned certifies that on the date below a true and correct copy of the foregoing was conveyed to prison authorities for mailing in accordance with prison legal mail procedures with first class U.S. postage prepaid and properly addressed to the following party.

Christy C. Wiegand  
Assistant U.S. Attorney  
U.S. Courthouse and Post Office  
700 Grant Street, Suite 400  
Pittsburgh, PA 15219

Date: 2/27/06

  
Patrick Lamon Sims #13953-039  
Petitioner/Pro-se  
FCI McKean  
P.O. Box 8000  
Bradford, PA 16701

February 27, 2006

Patrick Lamont Sims #13953-039  
Petitioner/Pro-se  
FCI McKean  
P.O. Box 8000  
Bradford, PA 16701


United States District Court  
Western District of Pennsylvania  
Office of the Clerk  
17 South Park Row  
Erie, PA 16501

Re: Sims v. Sherman:  
Civil No. 04-381E  
Judge Sean McLaughlin  
Magistrate Judge Baxter

Dear Clerk:

Enclosed for filing please find the original and two copies of Petitioner's "Motion For Enlargement of Time" with Certificate of Service and attachment.

Sincerely,

  
\_\_\_\_\_  
cc: file  
: jc  
: enclosure  
: AUSA Wiegand